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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,386	02/05/2004	Roland Kenny	85004-132 RWD	3040
23529	7590	12/04/2006	EXAMINER CASTELLANO, STEPHEN J	
ADE & COMPANY INC. 2157 Henderson Highway WINNIPEG, MB R2G1P9 CANADA			ART UNIT 3781	PAPER NUMBER

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/771,386

Applicant(s)

KENNY, ROLAND

Examiner

Stephen J. Castellano

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5, 6, 8 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5, 6, 8 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ghee in view of Paprocki and Jones.

Ghee discloses a holder for a beverage can, the holder comprising a receptacle with sleeve structure, the sleeve structure having a closed bottom and an open upper edge with a mouth recess (drinking recess 26) formed in the upper edge. Ghee discloses the invention except for the handle. Jones teaches a handle for a solid sleeve type beverage can holder. Paprocki teaches a handle for a beverage can holder wherein the handle connects a base and hinged top lid, in Fig. 6, a preferred orientation of the handle in relation to two diametrically opposed drinking openings in the beverage can are shown wherein the handle is circumferentially spaced 90 degrees from each of the openings. It would have been obvious to add a handle at an area 90 degrees from the mouth recess to allow comfortable and ergonomic handle gripping and drinking from the Ghee holder with easier gripping and a relaxed handling and grasping with no wrist twisting.

Re claim 9, Jones teaches the label opening has the opening between clamps 15 and 16 which allows sufficient space for a label. It would have been obvious to modify the handle to include the clamps and the inherent space provided between the clamps for placement of a label or to attach the handle in a secure manner.

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Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ghee in view of Paprocki and Jones as applied to claim 1 above, and further in view of Grissom and Gustafson.

The Ghee-Paprocki-Jones combination discloses the invention except for the second of the pair of mouth recesses. Grissom teaches a mouth recess opposed to a finger recess. Gustafson teaches a pair of finger recesses. It is generally well known to duplicate a part in a diametrically opposed region to provide easier access or ambidextrous access so that access to a mouth recess would be equal and not dependent on a user being left handed or right handed. It would have been obvious to add a recess to the diametrically opposite side of Ghee's holder as such that provide even finger access is large enough to allow the mouth to touch the beverage can and a recess designed for mouth access would certainly allow the mouth to touch the beverage can. It would have been obvious to modify the bottom of Ghee to be horizontal with no inclination and to modify the shape of the sidewalls to be upright and truly cylindrical as taught by the Jones, Grissom and Gustafson.

Applicant's arguments with respect to claims 1, 5, 6, 8 and 9 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

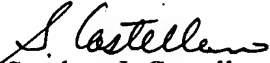
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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Stephen J. Castellano
Primary Examiner
Art Unit 3781

sjc